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ADMINISTRATIVE CO

2120 L Street, NW
Suite 600
Washington, DC 20037

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OFFICE OF THE SECRETARY

Robert Haga
Attorney

Voice: (202) 776-0200
Fax: (202) 776-0080
E-mail: rhaga@universalservice.org

February 8, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby
TW-A325
Washington, D.C. 20554

In re: Notice of Ex Parte Presentation in Changes to the Board of Directors of the National Exchange Carrier Association, **CC Docket No. 97-21**, and Federal-State Joint Board on Universal Service, **CC Docket No. 96-45**

Dear Ms. Salas:

Today Ms. Kate Moore, President of the Schools and Libraries Division of USAC, sent the attached letter concerning the operation of the first program year of the Universal Service Support Mechanism for Schools and Libraries to Irene Flannery, Chief of the Accounting Policy Division.

In accordance with Commission rules I am submitting two copies of this notice to the Office of the Secretary in each docket. Please acknowledge receipt hereof by affixing a notation on a duplicate copy of this letter furnished herewith for such purposes and remitting same to the bearer.

Sincerely,

Robert Haga

cc: Irene Flannery
Lisa Zaina
Sharon Webber
Tom Power
Linda Kinney
Kyle Dixon
Kevin Martin
Paul Gallant

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USAC
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SCHOOLS & LIBRARIES DIVISION

2120 L Street, N.W., Suite 600
Washington, D.C. 20037
Voice: (202) 776-0200 Fax: (202) 776-0080

Kate Moore
President
kmoore@universalservice.org

February 8, 1999

Irene Flannery
Chief of Accounting Policy Division
Federal Communications Commission
1919 M Street, NW
Washington, DC 20054

Re: Grace Period Proposal and Invoice Processing

Dear Ms. Flannery:

The SLD has become aware of concerns expressed by applicants and service providers over the timing and pace of delivery of services that are approved for discounts during the first program year. The SLD has been approached by a number of parties regarding the feasibility of a "grace period" to complete one-time projects that are subject to discounts funded for the first funding cycle. In addition, at least one *ex parte* has been filed with the FCC recommending such a plan. *See Ex Parte Presentation of the Council of Chief State School Officers (filed February 2, 1999).* The SLD has reviewed this proposal and we believe that a "grace period" could be implemented from an operational perspective in an efficient manner. Should the Commission decide to implement the grace period, the SLD has identified several rules which require waiver or adjustment. In addition, the SLD has identified two key components of the invoicing process which warrant the Commission's review and consideration for additional adjustment: the time frame for the SLD's acceptance and processing of Billed Entity Applicant Reimbursement (BEAR) Forms, FCC Forms 472, during the first funding year; and the end date for the SLD's and USAC's processing and payment of invoices after the conclusion of each funding year. While the SLD observes that all three components are integrally related, the SLD suggests that even if the Commission chooses not to introduce a grace period for the funding year, the BEAR process and invoice payment process should be extended.

(1) Proposed Grace Period—Extending the End Date for the Delivery of Services Approved for 1998-99 Discounts.

The pace of the issuance of Funding Commitment Decisions (FCD) Letters is tied directly to the requirements undertaken by the SLD to assure adequate program integrity review of each application. These requirements were developed in consultation with the General Accounting Office and our internal auditors, PricewaterhouseCoopers. While the SLD has made and continues to make every effort to issue FCD Letters as quickly as we possibly can, without compromising program integrity, the reality is that for this first program year, many of the letters will be issued during the first two months of 1999. Current program rules require these funding commitments to be used for services delivered to applicants by June 30, 1999. 47 C.F.R. Sections 54.507(d) and (e).

Many applicants and service providers have expressed concern that, once funding commitments are received, there will not be sufficient time to make effective use of these discounts by June 30, 1999. This is especially true of approved discounts for internal connections projects and other one-time installations. Many schools and school districts rely on vacation time, such as the summer months, to implement internal connections projects such as installation of local area network wiring, so as to avoid disrupting classroom instruction. Other school and library applicants are concerned that, even if they were able to begin work on these projects immediately upon receipt of their FCD letters, there would not be sufficient time to complete the work before June 30, 1999.

Vendors of internal connections equipment, high-speed data lines, and other components of eligible services have expressed the concern that it will be impossible for them to marshal the necessary material and labor resources to meet approved applicant demand by the current end of the program year. Furthermore, some local rules require third-party inspection, as a quality assurance measure, before the project can be considered completed. We have been told that these requirements make it very difficult, if not impossible, for applicants to use their discounts effectively and prudently within the existing 1998-99 deadlines.

The current rules require that services be delivered during the program year, in order to qualify for approved discounts. *See* 47 C.F.R. Sections 54.507(d) and (e). In order to qualify for discounts on services delivered on or after July 1, 1999, an applicant must file FCC Forms 470 and 471 for the second program year. The window period for filing second-year applications was recently extended to April 6, 1999. Even with this extension, however, applicants would be required to predict by April 6, 1999 whether they will be able to complete the delivery of their services approved for discounts during the first funding year by June 30, 1999. Applicants must file for second funding year discounts by the window closing date of April 6 if they predict they will <u>not</u> be able to so use their 1998-99 funding commitments by June 30. Once applicants received second funding year approval of discounts for services to be delivered on or after July 1, 1999, the unused discounts approved for the first funding year would then lapse. In other words, applicants would apply for funding of discounts from second funding year funds for the very same services that already were funded using first funding year discounts.

Finally, applicants who appeal 1998-99 funding decisions may be prevented by the current program timeframe from benefiting from a positive decision on their appeal either by the SLD or the FCC. Applicants must file appeals within 30 days of the issuance of their Funding Commitment Decisions Letters. We anticipate an average handling time of at least 30 days before we can issue a decision on an appeal. The applicant for internal connections discounts who receives a Funding Commitment Decisions Letter denying the request in late February and who appeals in late March, would have their appeal approved in early May, 1999 (presuming a persuasive reason on appeal was presented to the SLD). This would leave less than two months for the applicant to implement and complete its project for the delivery of eligible services.

The SLD recognizes that the adoption of a "grace period" from July 1, 1999 through September 30, 1999, for delivery of services to applicants who cannot use effectively and prudently their 1998-99 funding commitments by June 30, 1999 would create additional burdens on it, but believes that those burdens can be accommodated in an efficient manner. We hope that the FCC will find that to be covered by the grace period, all services must be delivered by September 30, 1999. (For implications of this proposal on service provider invoicing, see "Additional Grace Period for Invoicing the SLD," below.)

In order to implement this recommendation, waivers of the following rules are respectfully requested:

47 C.F.R. Sections 54.507(d) and (e), which prescribe that only services delivered during the current program year (January 1, 1998-June 30, 1999) are eligible for discounts. Services delivered from July 1, 1999 through September 30, 1999 should be eligible for discounts.

47 C.F.R. §54.511(d), providing for the exemption from competitive bidding for certain voluntary extensions. Voluntary extensions on contracts approved for discounts should be authorized up to September 30, 1999.

(2) Proposed Extension of Billed Entity Applicant Reimbursement Process through Entire First Program Year

In this start-up program year, schools and libraries by necessity applied for discounts in the same year they would receive them. Many of these discounts are for services that applicants were either already receiving or would begin to receive within the same year that they applied. With receipt of an FCD Letter, applicants may have been approved for discounts on services they had already paid for in full. Thus, the Billed Entity Applicant Reimbursement (BEAR) process was established for this first program year.

Applicants use the BEAR Form, FCC Form 472, to request reimbursement for discounts on services already delivered and paid during the course of the program year. Upon SLD's approval of a completed BEAR Form, the SLD notifies both the applicant and the service provider of the amount approved for reimbursement, and the service provider remits the approved amount to the applicant. The service provider is then reimbursed by USAC. Only after the service provider determines the amount of annual funding that remains after the BEAR Form is processed can the service provider set up the customer's account in order to begin prospective billing of discounts. A service provider must be informed of the amount available for discounts after a BEAR Form has been processed, so as to avoid billing of discounts when there are insufficient funds available for reimbursement.

Since the FCD Letter issuance process will now extend into the first two months of 1999, service providers have told us that it will be practically impossible for them to integrate the discounts into their billing systems before late spring of 1999. We estimate that it could be May 1999 before it has received, processed, and approved for payment all BEAR Forms from approved 1998-99 applicants.

Furthermore, applicants who appeal a decision in a February wave of FCD letters and are granted their appeal in late spring present an even greater invoicing challenge for service providers since the time is so compressed for implementing both reimbursement and prospective billing.

Therefore, we have reviewed and determined that the SLD could administer a process which allows providers of Priority One services (as defined by the FCC, telecommunications services and Internet access) to rely on the BEAR process for the entire first funding year for the invoicing process. For services received and paid for during the six-month period from January 1, 1999 through June 30, 1999, applicants would have the option of filing two quarterly BEAR Forms (on April 30, 1999 for the first quarter and July 31, 1999 for the second quarter, respectively) or reporting and computing all six months' worth of discounts on one BEAR Form filed no later than July 31, 1999.

Furthermore, we could administer a process allowing the BEAR Form to be available for reimbursements of applicants who pay in full for services delivered during the July 1, 1999-September 30, 1999 grace period proposed above. The BEAR deadline for the grace period would be October 31, 1999.

(3) Extension of Time Frame to Complete All Invoice Processing Within Three Months of End of Program Year.

According to the FCC's current rules and Orders governing the Universal Service Support Mechanism for Schools and Libraries, all program year-end invoice processing—including submission of invoices by service providers, processing of invoices by SLD, and payment of invoices by USAC—must be completed prior to the end of the first quarter of the following program year. See 47 C.F.R § 54.515(d). Therefore, as the rules currently stand, invoice processing for the 1998-1999 funding year must be totally complete no later that September 30, 1999.

Consultation with the service provider community and detailed planning of the invoice processing system—including safeguards against waste, fraud, and abuse—reveal very clearly that three months is not sufficient for completing the entire year-end process. The difficulty can be illustrated by the example of a telecommunications company providing phone service to a school and invoicing on the 18^{th} of each month for services provided in the previous 30-day period. This company's last invoice of the 1998-99 program year, covering services provided through June 30, 1999, would actually be submitted to the SLD no earlier than July 18, 1999, which is the same date that the bill for services delivered through June 30, 1999 would be issued to its customer. Allowing five days transmission time, the SLD would receive the invoice on July 23, 1999, and then process it within 20 days, in accordance with program rules. If no issues, questions, or problems arise concerning that invoice, the SLD would authorize USAC to pay the invoice within 20 days of receipt of the invoice, or by August 13, 1999. USAC would then pay the invoice amount to the service provider within 20 days of approval by SLD, by no later than September 3, 1999. If the invoice is faulty in any way, however, the SLD's processing system will reject it, within 20 days of receipt of the invoice, or on or about August 13, 1999. Service providers that receive electronic notification of the disposition of SLD processing of their invoices would learn of this rejection on or about August 13, 1999. Other service providers that do not choose to receive electronic notification from the SLD regarding the disposition of their invoices would not learn of the rejection until USAC issued the manual notification statement, on or about September 3, 1999. This procedure does not leave sufficient lead time for the service provider to correct the invoice and resubmit it for consideration by SLD for another 20 days, plus 20 days for payment, before the final deadline of September 30, 1999.

For the invoicing and payment of E-rate discounts to work in a rational and efficient way, with adequate safeguards and fair opportunity for correction by service providers, four months are needed at the end of each program year to complete the invoice process.

We appreciate the Commission's attention to these matters.

Respectfully,

Kate L. Moore

Kate L. Moore
President
Schools and Libraries Division
Universal Service Administrative Company